

COMPLAINT PROCEDURES

The Board's procedures for handling complaints are governed by its statute, regulations on hearing procedures, and other applicable Maryland laws such as the Administrative Procedures act and the Public Information Act. As we often receive inquiries concerning these procedures, the following summary explains the Board's Procedures for handling complaints.

Section 11-313 of the Optometry Act lists the violations with which an optometrist may be charged, and indicates that such a violation may result in the denial of a license, the issuance of a formal reprimand, or the suspension or revocation of a license.

Unlicensed Individuals

Once a complaint is received by the Board, the Board first determines whether it has jurisdiction to investigate the complaint. If the individual is neither a licensed optometrist nor an applicant for licensure, the Board may ask the office of the Attorney General to refer the complaint for prosecution by the State's Attorney in the locality where the individual lives, provided that the individual appears to have been either practicing optometry illegally or has misrepresented himself or herself as an optometrist. In some circumstances, the Board may choose to write a letter to the individual, asking that he or she cease or desist from the illegal activity.

Licensed Practitioners

If the individual is either a licensed optometrist or an applicant for licensure, the Board will determine whether the complaint alleges that the individual committed any of the acts enumerated in Section 11-313. The Board then sends a copy of the complaint to the practitioner and asks for a response to the issues in the complaint and provides any relevant records to the Board. The Board reviews the response and the complaint and determines whether further information is needed or if the complaint should be referred to the Board's investigator. There may be instances in which the complainant has given a reason for not sharing the complaint with the licensee. In such an instance, the complaint could be forwarded directly to the investigator. The investigator then interviews all relevant parties, including both the complainant and the practitioner, and subpoenas all necessary records and documents.

Decisions

When the investigation is complete, the investigator submits a factual report to the Board. The Board reviews the investigative report to determine if there is probable cause to charge the licensee, that is, whether the facts reported give reason to believe that the individual has committed one of the acts described in Section 11-313 of the Optometry Act the Board may decided not to charge the individual, to informally sanction him or her, or to charge the individual with the violating the Act.

Hearing

If the Board requests an informal meeting with the optometrist or decides to charge the optometrist, the details of the complaint are made to the available to the optometrist of his or her attorney. If the Board does charge the individual, he or she is notified of the charges and a hearing is scheduled, as provided in Section 11-315 of the Act. **If a hearing is held, you may be required to testify.** It is only after such a hearing that the Board may take formal action against the individual. If action is taken against the optometrist, the optometrist has the right to appeal the Board's decision, as provided in Section 11-317 of the Act. The complainant has no right to appeal the Board's action in any case.

It is important to emphasize that the fact that the Board brings formal charges against an optometrist reflects only its belief that there is probable cause to believe that the individual has committed a violation under the Act. The Board's final decision is based only on the evidence presented by both sides during the hearing procedures.

Case Resolution Conference

Prior to holding an evidentiary hearing, the Board usually holds a case resolution conference. At this time, there is an opportunity for the optometrist and the Board to settle the case by means of a consent order. That is, the Board and the optometrist may mutually agree on certain penalties, which may either replace or supplement penalties provided in Section 11-313 of the Act. For example, depending upon the circumstances, an optometrist may agree to provide financial restitution, fulfill certain educational requirements, engage in supervised or limited practice, or fulfill one or more additional requirements relevant to the situation. In such cases, a formal hearing would not be held, but the optometrist would be bound by the consent order and would surrender his or her right to appeal the case.

Whether a case is settled through a formal hearing or by consent order, it is advisable for the accused individual to retain legal counsel. It should also be emphasized that careful adherence to all the procedures outlined above normally takes several months. When a final determination is made, the Board notifies the complainant and the licensee.

MARYLAND BOARD OF EXAMINERS IN OPTOMETRY
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TO THE PERSON FILING THE COMPLAINT:

- A. The Board of Examiners in Optometry is charged with investigating and acting upon complaints against licensed optometrists only.
- B. The Board will not consider any complaint unless it is signed and dated. All blanks should be filled in as completely as possible. Where the information requested is not known, the complainant should so state. Please type or use Black Ink when completing this form.
- C. In order to expedite the processing of the complaint, please write the correct names, addresses and telephone numbers of all persons named in the complaint including that of the complainant, the optometrists and all others.
- D. You should be aware that the Board normally forwards a copy of the complaint to the optometrist and requests a response to the issues in the complaint. If there are any reasons why you feel this complaint should not be shared with the optometrist for response, please include these reasons on a separate statement attached to the complaint.
- E. The Board will review the complaint and the optometrist's response and will determine whether further investigation is warranted. If the complaint is referred for investigation, the investigation may take up to ninety days and in some cases longer. Thereafter, the Board reviews the report, after which it may conduct further investigations, as it deems necessary. If the board determines to bring charges against an optometrist and to hold a hearing, the hearing must be held and sufficient advance notice given to the optometrist concerned to enable the optometrist to prepare a defense. Therefore, in most cases, there is a considerable time lapse between the filing of the complaint and the hearing if one is held. In all cases, the Board will advise the complainant of the action taken when a final determination has been made.
- F. PLEASE NOTE: The Board does not have the authority to handle or resolve complaints concerning fee disputes, refunds or other similar economic issues where there does not appear to be a claim of fraud or misrepresentation. The Board refers such complaints to the Consumer Protection Division of the Attorney General's Office. The Board will notify you if this referral is made.

If there is more than one complainant, please use a separate form for each one.

1. Full name of the complainant _____
2. Home address _____
3. Business address _____
4. Home telephone () _____ Business telephone () _____
5. Date of Birth _____ Social Security # _____ - _____ - _____
6. Name of optometrist complained of _____
7. Office address _____
8. Were you a patient of the optometrist? _____ If so, during what period of time?

9. Have you discussed your complaint with the optometrist about whom you are making the complaint? _____
10. Date (s) of the occurrence(s) of the complaint _____

11. Describe with as much detail as possible, the exact nature of your complaint(s) against this optometrist. Use as many additional sheets as necessary. Number each additional sheet and sign each one at the bottom.

12. State the names, addresses, and telephone numbers of all persons, including optometrists, who witnessed or who have other knowledge of your complaint or the occurrence.

13. Have you made this complaint to any other person of organization? _____
If so, to whom? _____
14. Do you, or did you, consider the optometrist complained of to be your family optometrist? _____
15. For what condition were you being treated by this optometrist? _____

16. Do you consent to the release to this Board of its designated investigating body, of medical reports and records relating to you and to this occurrence from any hospital, related institution of health professional, including the optometrist complained of? _____

IF THE COMPLAINT IS MADE BY A PERSON OTHER THAN A PATIENT, PLEASE FURNISH THE FOLLOWING INFORMATION:

17. Your official title or designation _____

18. Did you personally investigate the matter set forth in this complaint? _____

19. If not, or if others assisted you in the investigation, state the names and titles of titles of the person or persons, if any who investigated or assisted.

20. Do you have any reports or other written communications with respect to the matters complained of? _____

(If so, please attach copies of such materials to this complaint form)

21. Please state any further information regarding this complaint which you wish to convey to the Board. _____

Date of Complaint

Signature of Complainant